

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

ITE&C Department - Guidelines to be followed in respect of requests from IT companies for (i) transfer of land in case of acquisition/merger/de-merger/amalgamation/ takeover of IT companies and (ii) request for extension of time for fulfilment of employment obligation - Orders - Issued.

INFORMATION TECHNOLOGY, ELECTRONICS AND COMMUNICATIONS
(Promotions) DEPARTMENT

G.O.Ms.No. 3

Dated:20-01-2014:
Read the following:

1. ICT Policy 2010-2015 issued vide G.O.Ms.No.09, IT&C Dept, dt: 07.07.2010.
2. Operational Guidelines on ICT Policy 2010-2015 issued vide G.O.Ms.No.13, IT&C Dept, dt: 31.07.2010.
3. Government Land Allotment Policy Guidelines issued vide G.O.Ms.No.571, Revenue (Assign-I) Dept dt: 14.09.2012 and G.O.Ms.No.607, Revenue (Assign-I) Dept dt: 11.10.2012.

ORDER:

As per the Information & Communications Technology (ICT) Policy of the Government, appropriate extent of land allotments are made to the ICT Industry from time to time by ITE&C Dept through the land allotment statutory agencies such as AP Industrial Infrastructure Corporation (APIIC)/Hyderabad Metropolitan Development Authority (HMDA) etc, on certain terms & conditions such as fulfillment of employment obligation, completion of project over stipulated time period, etc.

2. Off late, the ITE&C Dept has been receiving requests from IT companies who have been allotted APIIC lands as per ICT Policy for (i) change of name & for transfer of land, subsequent to acquisition/merger/de-merger/amalgamation/ takeover of IT companies and (ii) extension of time for fulfillment of employment obligation. There are certain IT companies/MNCs who have been allotted lands in the past having not completed the time for fulfillment of employment obligation as per the MoUs entered with them and may seek extension of time in the near future.

3. As per the ICT Policy, APIIC at the time of allotment does the Agreement of Sale to the allottee, by retaining a Bank Guarantee from the IT allottee equivalent to an amount of the employment linked rebate allowed on land cost basing the no. of employment committed as per MoU. APIIC affects the Sale Deed/Title Transfer to the allottee after fulfillment of employment obligation as per MoU.

4. At present, there are no common Guidelines or procedure for dealing such requests for approval for (i) transfer of land in case of acquisition/merger/de-merger/amalgamation/ takeover of IT companies and (ii) request for extension of time for fulfillment of employment obligation. As such, in order to have uniformity / avoid discrimination, decision making on case to case basis, it is felt that there is a necessity to have common Guidelines to be followed in a transparent and Industry friendly manner for process of the said requests from IT company allottees.

5. In view of the above, basing on the suggestions made by the IT Industry in the Consultative Committee on IT Industry (CCITI) meetings, and since the changes in the formation of companies over a period of time is inevitable in the corporate structure, as per the Companies Act 1956, Government after careful consideration hereby issue the following Guidelines to be followed in respect of the requests of IT companies for (i) transfer of land in case of acquisition/merger/de-merger/amalgamation/ takeover of IT companies and (ii) request for extension of time for fulfilment of employment obligation:

GUIDELINES

I. These Guidelines to be followed in respect of the requests of IT companies (on MoU with Government) for (i) transfer of land in case of acquisition/merger/de-merger/amalgamation/ takeover of IT companies and (ii) request for extension of time for fulfillment of employment obligation, etc, are supplementary to the Operational Guidelines issued vide second read above.

II. These Guidelines are prescribed to consider (i) extension of time limits to fulfill the conditions stipulated in MoU in case of acquisition/merger/de-merger/amalgamation/ takeover of IT companies or (ii) for extension of time for fulfillment of employment obligation of the companies to whom the land was allotted.

III. These Guidelines are also applicable to the IT allotments where APIIC/Government have a role in the form of share holding, etc.

IV. In respect of pending requests for transfer of land in case of acquisition/merger/de-merger/amalgamation/ takeover of IT companies or for fulfillment of employment obligation of the companies to whom the land was allotted, these Guidelines are applied as on the date of their application for consideration of such request.

V. All the new allottee IT companies or fresh applicants of such request shall take prior approval of their proposal from the State Government for any acquisition/merger/de-merger/amalgamation/ takeover of IT companies before they approach the Registrar of Companies/High Court or any other agency as per Companies Act 1956, for this purpose.

(VI) SCENARIO-I: Modalities for transfer of land in case of acquisition/ merger/de-merger/ amalgamation/ takeover of IT companies:

- (i) The resultant company should continue to be an ICT Company and shall be in the IT/ITES activity as defined under ICT Policy 2010-2015.
- (ii) The resultant company on the date of the application/request to the Govt, shall have otherwise been qualified for consideration for allotment of land as per eligibility criteria laid under ICT Policy 2010-2015.

S.No.	Scenario	Modalities
1	In cases where 30% or Less fulfillment of allotment conditions on employment/ investment/built up space met by the company	Cancellation and resumption of subject land allotted as per the procedure of APIIC.
2	In cases where 31% to 80 % fulfillment of allotment conditions on employment/ investment/built up space met by the company	(i) Creation of additional employment and built up space as per the norms and timelines of present ICT Policy 2010-2015. (ii) 10% of the present land value as determined by APIIC to be charged as processing charges to be paid to the Government. (iii) an application fee of Rs.10,000/- per acre payable to APIIC. (iv) APIIC to enter into fresh Agreement with the

		resultant company on creation of additional employment and built up space with specific time lines thereon.
3	In cases where 81% to 100% fulfillment of allotment conditions on employment/ investment/built up space met by the company	(i) Creation of additional employment and built up space as per the norms of present ICT Policy 2010-2015. (ii) 5% of the present land value as determined by APIIC to be charged as processing charges to be paid to the Government. (iii) an application fee of Rs.10,000/- per acre payable to APIIC. (iv) APIIC to enter into fresh Agreement with the resultant company on creation of additional employment and built up space with specific time lines thereon.
4	In cases where 100%, fulfillment of allotment conditions on employment/ investment/built up space met by the company	APIIC may take necessary action as per the terms & conditions of allotment/MoU for transfer of land through Sale Deed putting a specific condition that the land after Sale Deed shall be utilized for IT activity only.

(VII) SCENARIO-II: Modalities for extension of time for fulfillment of employment obligation not provided in the MoU/MoA:

S.No.	Scenario	Modalities
1	In cases where 30 % or Less fulfillment of allotment conditions on employment/ investment/built up space met by the company	Cancellation and resumption of subject land allotted as per the procedure of APIIC.
2	In cases where 31% to 80 % fulfillment of allotment conditions on employment/ investment/built up space met by the company	(i) Creation of additional employment and built up space as per the norms of present ICT Policy 2010-2015. (ii) 10% of the present land value as determined by APIIC to be charged as processing charges to be paid to the Government (per annum basis). (iii) an application fee of Rs.10,000/- per acre payable to APIIC. (iv) APIIC to enter into fresh Agreement with the respective company on creation of additional employment and built up space with specific time lines thereon.
3	In cases where above 80%, fulfillment of allotment conditions on employment/ investment/ built up space met by the company	(i) Creation of additional employment and built up space as per the norms of present ICT Policy 2010-2015 (ii) 5% of the present land value as determined by APIIC to be charged as processing charges to be paid to the Government (per annum basis). (iii) an application fee of Rs.10,000/- per acre payable to APIIC. (iv) APIIC to enter into fresh Agreement with the respective company on creation of additional employment and built up space with specific time lines thereon.

(VIII) In case, the extension of time for fulfillment of employment obligation sought by the company is due to the reasons beyond the control of the company, e.g: in case the subject land is not title free or subjudice, the time lines for fulfillment of the conditions of the MoU shall be from the effective date of commencement of construction of the facility by the IT company on the subject land.

(IX) These guidelines are applicable for land allotments done by APIIC/HMDA as per ICT Policy to the IT companies and not to direct land alienation cases.

6. In this regard, APIIC to scrupulously follow the alienation guidelines of Revenue Dept while dealing with the land alienated to them by Revenue Dept. ITE&C Dept shall ensure that the alienation conditions imposed by the Government as per the Government Land Allotment Policy issued vide G.O.Ms.No.607, dt: 11.10.2012 issued by Revenue (Assign-I) Dept of Govt of AP, are strictly complied with in respect of each and every allotment to IT companies.

7. Copy of this order is available online at www.goir.ap.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**SANJAY JAJU
SECRETARY TO GOVERNMENT**

To

All the Departments of Secretariat
The Metropolitan Commissioner, HMDA, Hyderabad
The Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad
The Commissioner and I.G., Stamps and Registration, Hyderabad
The Vice Chairman and Managing Director, APIIC Ltd, Hyderabad
The Commissioner, Industries, Hyderabad
The Commissioner, Information and Public Relations, Hyderabad
The Member Secretary, A.P. Pollution Control Board, Hyderabad
The Chairman & MD, AP TRANSCO, Hyderabad
The Managing Director, APCPDCL/EPCPDCL/WPCPDCL/SPCPDCL/NPCPDCL
The Commissioner, Labour, Hyderabad
The Vice Chairman, VUDA/TUDA/VGTMUDA
The Development Commissioner, AP IT SEZs, Hyderabad
The Development Commissioner, VSEZ
The Director, STPI, Hyderabad
The President, ITsAP, Hyderabad
The President, ELIAP, Hyderabad
The Regional Director, NASSCOM, Hyderabad
The President, AVCGI, Hyderabad
The President, VITA, Visakhapatnam
The President, RITPA, Visakhapatnam
The Vice Chairman, ESC, New Delhi

Copy to:

The Secretary to GoI, Ministry of Communications & Information Technology, New Delhi
The Chief Minister's Office/Chief PRO to C.M.
The Chief Commissioner, Customs & Central Excise, Hyderabad
The Collector, R.R.District, Hyderabad
The PS to Minister for ITE&C, Hyderabad
The PS to Minister for Finance, Hyderabad
The PS to Minister for Major Industries, Hyderabad
The PS to Minister for Revenue, Hyderabad
The PS to Minister for MA&UD, Hyderabad
The PS to Minister for Energy, Hyderabad
The PS to Minister for Labour, Hyderabad.

// FORWARDED :: BY ORDER //

SECTION OFFICER